

EXPRESS MAIL LABEL NO. EL 994829249US

PATENT APPLICATION
DOCKET NO.: 2409.3273.3US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
AUG 30 2004
TECHNOLOGY CENTER R3700

In re application of:

Geoffrey S. Martin

For:

MULTIPLE LUMEN CATHETER

Serial No.:

09/819,458

Filed:

March 27, 2001

Examiner:

Kevin C. Sirmons

Art Unit
3763

TERMINAL DISCLAIMER "B"

Commissioner for Patents
United States Patent and
Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

I, Peter R. Curry, hereby declare as follows:

1. That I am a Director of VAS-CATH INCORPORATED, and am authorized to make the representation and take the actions set forth below in this document.

2. That the above-captioned United States Patent Application Serial No. 09/819,458 filed March 27, 2001 (hereinafter "the Present Application"), is a continuation of United States Patent Application Serial No. 09/139,705 (hereinafter "the Parent Application") that was filed on

August 25, 1998, and that matured into United States Patent No. 6,206,849 (hereinafter “the ‘849 Patent”) to which the Present Application claims priority under 35 U.S.C. §120.

3. That the Parent Application is a continuation of United States Patent Application Serial No. 08/481,169 (hereinafter “the Grandparent Application”) that was filed on June 7, 1995, and that matured into United States Patent No. 5,797,869 (hereinafter “the ‘869 Patent”) to which the Present Application also claims priority under 35 U.S.C. § 120;

4. That the Parent Application is a continuation of United States Patent Application Serial No. 08/205,331 (hereinafter “the Great-Grandparent Application”) that was filed on March 3, 1994, and that matured into United States Patent No. 5,472,417 (hereinafter “the ‘417 Patent”) to which the Present Application also claims priority under 35 U.S.C. § 120; that under 35 U.S.C. § 154(c)(1) the normal expiration date of the full statutory term of the ‘417 Patent is March 23, 2010; and that a copy of the ‘417 Patent is attached as Exhibit A.

5. That the Great-Great-Parent Application is a continuation of the now abandoned United States Patent Application Serial No. 07/785,351 (hereinafter “the Great-Great-Grandparent Application”) that was filed on October 30, 1991, and to which the Present Application also claims priority under 35 U.S.C. § 120.

6. That the Great-Great-Grandparent Application is a continuation of United States Patent Application Serial No. 07/288,364 (hereinafter “the Great-Great-Great-Grandparent Application”) that was filed on December 22, 1988, and that matured into United States Patent No. 5,195,962 (hereinafter “the ‘962 Patent”) to which the Present Application also claims priority under 35 U.S.C. § 120.

7. That a related United States Patent Application Serial No. 07/699,421 (hereinafter "the '421 Application") filed on August 4, 1992, is a divisional of the Great-Great-Great-Grandparent Application; and that the '421 Application matured into United States Patent No. 5,135,599 (hereinafter "the '599 Patent") to which the Present Application also claims priority under 35 U.S.C. § 120.

8. That VAS-CATH INCORPORATED is the owner of all right, title and interest in the '962 Patent by the cumulative action of the following documents that were executed and recorded in the United States Patent and Trademark Office relative to the Great-Great-Great-Grandparent Application:

- a. the Assignment attached herewith as Exhibit B that was recorded in the United States Patent Office on February 21, 1989, at Reel 5256, Frames 304-305; and
- b. the Assignment attached herewith as Exhibit C that was recorded in the United States Patent and Trademark Office on May 24, 1990, at Reel 5311, Frames 979-982; and

that the above-described ownership of the '962 Patent was recently verified by a title report secured from the United States Patent and Trademark Office on August 12, 2004, a copy of which is attached as Exhibit D.

9. That VAS-CATH INCORPORATED is the owner of all right, title, and interest in the '599 Patent by the cumulative action of the documents attached herewith as Exhibits B and C and discussed above in Paragraph No. 8, inasmuch as the '599 Patent issued on August 4, 1992, with

VAS-CATH INCORPORATED as the named assignee on the cover page, a copy of which is attached as part of Exhibit E, and as the above-described ownership of the '599 Patent was recently verified by a title report secured from the United States Patent and Trademark Office on August 13, 2004, a copy of which is also attached as part of Exhibit E.

10. That VAS-CATH INCORPORATED is the owner of all right, title, and interest in the '417 Patent by the cumulative action of the documents attached herewith as Exhibits B and C and discussed above in Paragraph No. 8, inasmuch as the '417 Patent issued on March 3, 1994, with VAS-CATH INCORPORATED as the named assignee on the cover page, a copy of which is attached as part of Exhibit F, and as the above-described ownership of the '417 Patent was recently verified by a title report secured from the United States Patent and Trademark Office on August 12, 2004, a copy of which is also attached as part of Exhibit F.

11. That VAS-CATH INCORPORATED is the owner of all right, title, and interest in the '869 Patent by the cumulative action of the documents attached as Exhibits B and C and discussed above in Paragraph No. 8, inasmuch as the '869 Patent issued on August 25, 1998, with VAS-CATH INCORPORATED as the named assignee on the cover page, a copy of which is attached as part of Exhibit G, and as the above-described ownership of the '869 Patent was recently verified by a title report secured from the United States Patent and Trademark Office on August 12, 2004, a copy of which is also attached as part of Exhibit G.

12. That VAS-CATH INCORPORATED is the owner of all right, title, and interest in the '849 Patent by the cumulative action of the documents attached as Exhibits B and C and discussed above in Paragraph No. 8, inasmuch as the '849 Patent issued on March 27, 2001, with VAS-CATH INCORPORATED as the named assignee on the cover page, a copy of which is attached as part of Exhibit H, and as the above-described ownership of the '849 Patent was recently verified by a title report secured from the United States Patent and Trademark Office on August 12, 2004, a copy of which is also attached as part of Exhibit H.

13. That in light of the facts averred above in Paragraph Nos. 2-12, VAS-CATH INCORPORATED is the owner of all right, title, and interest in the Present Application, inasmuch as the Present Application was published on November 22, 2001, as United States Patent Application Publication No. 2001/0044594 with VAS-CATH INCORPORATED as the assignee named on the cover page, a copy of which is attached as part of Exhibit I, and as the above-described ownership of the Present Application was recently verified by a title report secured from the United States Patent and Trademark Office on August 12, 2004, a copy of which is also attached as part of Exhibit I.

14. That the documents at Exhibits A-I have been reviewed by me; and that to the best of my knowledge the documents at Exhibits A-I accurately reflect the rights of VAS-CATH INCORPORATED in the Present Application and the '417 Patent.

15. That VAS-CATH INCORPORATED hereby disclaims the terminal part of the term of any patent granted from the Present Application which would extend beyond March 23, 2010, the normal expiration date of the full statutory term of the '417 Patent as described in Paragraph No. 4 above.

16. That VAS-CATH INCORPORATED further hereby agrees that prior to March 23, 2010, the normal expiration date of the full statutory term of the '417 Patent, any patent granted from the Present Application shall be enforceable only for and during such period as the legal title in that patent shall be in the same entity as the legal title in the '417 Patent.

17. That except as set forth in Paragraph No. 16 above, VAS-CATH INCORPORATED does not disclaim any terminal part of the term of any patent granted from the Present Application in the event that subsequently hereto, the '417 Patent either expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole under 37 C.F.R. § 1.321(a), is terminally disclaimed in whole under 37 C.F.R. § 1.321(b), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to March 23, 2010, the normal expiration date of the full statutory term of the '417 Patent.

18. That VAS-CATH INCORPORATED agrees that this agreement is to run with any patent granted from the Present Application and to be binding upon VAS-CATH INCORPORATED and any successors or assigns thereof.

19. That all declarations made herein based on my own knowledge are true and that all statements made herein on information and belief are believed to be true; and that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the Present Application or any patent issuing therefrom.

DATED this 16th day of August, 2004.

VAS CATH INCORPORATED

By: 

Peter R. Curry
Director

KSB:df/tlb

N:\2409\3273.3US\TERMINAL DISCLAIMER B.DOC